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Letter dated 23 October 2002 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a memorandum concerning the situation of human rights in Myanmar (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 109 (c).

(*Signed*) Kyaw Tint **Swe**
Permanent Representative

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Annex to the letter dated 23 October 2002 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

Memorandum on the situation of human rights in Myanmar

I Introduction

At its fifty-sixth session, the General Assembly adopted resolution 56/231 of 24 December 2001, on the "Situation of human rights in Myanmar". As in previous resolutions, this resolution reflected in the main the unsubstantiated allegations emanating from groups opposed to the government and the politically biased report of a former Human Rights Special Rapporteur, Mr. Lallah, who never visited the country. The necessity to retain the allegations based on previous reports are therefore questionable because the present Human Rights Rapporteur Professor Paulo Sergio Pinheiro has visited Myanmar four times, has travelled widely, interviewed scores of people and submitted reports to relevant United Nations Bodies.

Positive developments which had occurred in Myanmar and the positive measures taken by the government were not given due recognition in the resolution. The true evolving situation of human rights in Myanmar could not therefore be reconciled with the unrealistic, selective and subjective resolution. Myanmar had no alternative but to reject the unfounded allegations contained therein and dissociated itself from the resolution.

Pursuant to resolution 56/231, the current session will continue its consideration of the situation of human rights in Myanmar. This Memorandum provides factual information in order to rectify any misperceptions that may still persist. It focuses on areas addressed in the resolution and where significant positive developments have materialized.

II Political situation

The Government of Myanmar is fully committed to the establishment of a multi-party democracy with firm foundations. The Government and people of Myanmar recall the bitter experience of instability and armed insurrections for over forty years under various political systems and an economy that failed under 25 years of central planning.

In 1988 Myanmar suffered through months of terrible riots, looting, social anarchy and even mob inspired executions before security and stability could be restored. No one in Myanmar wishes to go through that ordeal again. The Government therefore takes the issue of political instability most seriously as the nation steadily evolves towards the aspired goal of a stable multi-party democratic system.

Mindful of the negative consequences of ill-prepared transition, firm foundations are being laid down in orderly continuous measured steps. The transition process is moving forward. The pace of change can only be determined by the people of Myanmar. The international community can best assist by encouraging the process, including a reconciliation that should be "home grown".

The persevering efforts of the government are showing positive results. For the first time in over half a century the armed conflicts which had plagued Myanmar ever since independence have now ceased in almost all parts of the country and is now limited to a few border areas. Myanmar is now

enjoying unprecedented peace. In the report submitted after his third mission to Myanmar from 11-19 February 2002, Special Rapporteur Professor Paulo Sergio Pinheiro commended the long, patient efforts by the Government and seventeen armed ethnic groups to reach separate cease-fire agreements. He identified the first dividend of these cease-fire agreements as peace, and the second as development. Achievement of peace with seventeen armed insurgent groups that had been ravaging the various regions of the country for more than four decades is in fact the most crucial part of the national reconciliation process.

With this restoration of a peaceful and stable environment the government has seized the opportunity to invest in infrastructure for the country. One hundred and thirty six new dams, 32 power plants, 145 bridges including nine largescale bridges across major rivers, nearly 4,230 miles of road and 1,000 miles of railroad have been built. New transport facilities, including a container terminal in Yangon and a modern international airport in Mandalay were constructed. The wide gap has been significantly narrowed between the rural areas, where the majority live, and the main urban areas.

In Myanmar, where 135 national races have lived together for over a thousand years, the Union Spirit of Myanmar has been rekindled. This has enabled the Government to embark on the next step of the national reconciliation process. Since the contacts and meetings started between leaders of Government and the NLD party, one of the ten political parties that are officially registered in the country, the political climate in Myanmar has steadily improved. Cooperation rather than confrontation has been promoted. In a government news release of 6 May 2002, the authorities stated "we shall recommit ourselves to allowing all our citizens to participate freely in the life of our political process, while giving priority to national unity, peace and stability of the country as well as the region".

As a consequence, all restrictions on Daw Aung San Suu Kyi of the NLD were lifted on the same day and she has since been travelling in the country and viewing firsthand some of the vast government infrastructure development projects as well as United Nations projects. During the various trips, the government extended all courtesies to her. She is freely interacting with the press, media and civil society as well as with the diplomatic community and United Nations agencies.

Over 700 detainees and prisoners have been released on humanitarian grounds and it has been pledged that those who are considered to cause no harm to the community nor threaten the existing peace and stability of the nation shall continue to be released.

The Spokesman for the UN Secretary-General in issuing a statement on 6 August 2002, on the completion of Special Envoy Mr. Razali Ismail's eighth mission, expressed the Special Envoy's belief that "the national reconciliation process would continue to evolve positively and in a way that corresponds with the 'Spirit' of the home grown process that has developed thus far". The statement further emphasized Mr. Razali's hope that "the international community will nurture and encourage this process and respond appropriately".

Special Rapporteur Professor Paulo Sergio Pinheiro in his oral statement at the 58th Session of the Commission on Human Rights on 28 March 2002 stated, "If the international community wants to see political and human rights progress taking place, it should support the efforts underway in a spirit of principled engagement."

III Cooperation with the United Nations

A. Cooperation with the Special Rapporteur

Myanmar practices a consistent policy of cooperation with the United Nations. The firm belief of Myanmar in the purposes, principles and ideals of the United Nations motivates this policy.

Myanmar has cooperated with the United Nations in the area of human rights by providing necessary information requested by the UN bodies such as the Commission on Human Rights, the thematic working groups as well as thematic rapporteurs.

The Government of Myanmar accepted the first visit of Special Rapporteur Professor Paulo Sergio Pinheiro from 3 to 5 April 2001. The Government extended all assistance to the Special Rapporteur to facilitate his work and in fulfilling all his specific requests. The Special Rapporteur formally acknowledged the full cooperation he had received. Despite the short duration of his visit, the Special Rapporteur could meet with many personalities, including Daw Aung San Suu Kyi of the NLD party.

In October 2001, the Special Rapporteur visited Myanmar for the second time. The Government had made detailed arrangements to facilitate his request for meetings as well as for trips to areas of his expressed interest. Originally planned for 12 days the visit was shortened by 2 days due to a medical problem of the Special Rapporteur. He was again able to meet with a wide range of individuals and organizations, including government officials, leaders of various political parties, including the NLD party, leaders of ethnic groups, representatives of UN Agencies and international civil society organizations.

The Special Rapporteur visited Myanmar for the third time from 11 to 19 February 2002. During this visit he continued to receive the same level of full and unhindered cooperation on the part of the Myanmar Government, for which he expressed sincere appreciation. He was able to complete his full programme and enjoyed freedom of movement and access to private persons and to others of interest, including security detainees and convicted prisoners. Acceding to a request by the Special Rapporteur, 318 women prisoners were released on humanitarian grounds.

Contrary to accusations by dissident groups, the Special Rapporteur confirmed in his report that none of the persons whom he had privately met and interviewed during his missions in Myanmar were subjected to any form of harassment or reprisal.

In the concluding observations of his report on the mission, the Special Rapporteur, noted among other points, that "in the delicate juncture in Myanmar new prospects for reconciliation and democratization needed to be handled with great care and generosity on the part of all those who wish the Myanmar people well".

On each and every visit the government extended full cooperation to the Special Rapporteur to enable him gain a wider and objective assessment of the situation of human rights in the country.

Special Rapporteur Professor Pinheiro is visiting Myanmar for the fourth time from 17 to 28 October 2002.

B. Invitation extended to the UN High Commissioner for Human Rights

The Government warmly welcomed the appointment of the new United Nations High Commissioner for Human Rights, Mr. Sergio Vieira de Mello. The Government also extended an invitation to the High Commissioner to visit Myanmar at a mutually convenient time to witness the ongoing progress of human rights efforts in Myanmar. The High Commissioner has accepted the invitation.

C. Continued cooperation with the Special Envoy of the Secretary-General

The Government of Myanmar continued its dialogue and cooperation with the United Nations Secretary-General through his Special Envoy, Mr. Razali Ismail. Mr. Razali, who was appointed Special Envoy in April 2000, has visited Myanmar for a total of eight times. His eighth visit was in August 2002. During his five-day mission Mr. Razali met separately with Government leaders including General Khin Nyunt, Secretary-1 of the State Peace and Development Council, and leaders of the National League for Democracy including Daw Aung San Suu Kyi. The Special Envoy also met with leaders of several ethnic nationality parties.

In a statement issued by the spokesman for the UN Secretary-General following the five-day visit, Mr. Razali expressed his belief that "the national reconciliation process would continue to evolve positively and in a way that corresponded with the 'Spirit' of the home grown process that had developed thus far".

The statement also said that the Special Envoy had been informed by Daw Aung San Suu Kyi that "as a result of her recent travels in the country, she was willing to cooperate with the Government in a way that directly benefit all the people of Myanmar and would contribute to the evolution of a democratic state".

Mr. Razali expressed the hope that the international community would "nurture and encourage the national reconciliation process and respond appropriately".

Mr. Razali is scheduled to make his ninth visit to Myanmar from 12 to 15 November 2002.

D. Cooperation with the International Labour Organization

Myanmar inherited two labour laws, the Village Act and Towns Act of 1907, when it regained its independence from Britain in 1948. The use of civilian labour under these Acts was alleged to be forced labour and to be in conflict with Convention 29 of the ILO, despite being governed by rules and regulations guaranteeing proper treatment and adequate payment. This led to the establishment of a Commission of Inquiry by the International Labour Organization in 1997.

The Myanmar Government dissociated itself from the Inquiry Commission and its report and recommendations as it viewed these as being inspired by powerful forces with a politically motivated anti-Myanmar agenda.

Although Myanmar dissociated itself from the resolution of the 88th Session of the International Labour Conference, it felt obliged as a responsible ILO member to cooperate with the Organization in seeking for a solution to the issue. As a result, an ILO Technical Cooperation Mission visited Myanmar three times during 2001-2002, at the invitation of the Government.

As a sign of growing confidence and cooperation between Myanmar and the ILO, a high-level team of the ILO, led by a former Governor-General of Australia, Sir Ninian Stephen and eminent persons of the Philippines, Sri Lanka, and Poland as members, paid a successful three-week visit to Myanmar in September and October 2001. The Chairman of the State Peace and Development Council, Senior General Than Shwe, himself received Sir Ninian and members of his team.

In fulfillment of its commitment to address the issue, Myanmar has taken the necessary legislative, executive and administrative measures to prohibit forced labour including the issuance of two legislative Orders thereby bringing the Towns Act and Village Act in line with Convention 29. The government is also meting out severe penalties to those violating these legislative Orders.

On 19 March 2002 an agreement between Myanmar and the ILO on the appointment of a Liaison Officer in Myanmar was signed in Geneva. On 6 August the Director-General of the ILO announced the appointment of Ms. Hong-Trang Perret-Nguyen as ILO Liaison Officer in Myanmar.

The Government has also invited a High Level Technical Cooperation Mission from the ILO to visit Myanmar in the near future.

These positive developments as well as the comprehensive measures taken to ensure the elimination of forced labour, should leave no room for doubt about the firm commitment of the Government of Myanmar to resolve this issue.

IV Initiative on human rights

A 20-member Human Rights Committee with the Minister for Home Affairs as Chairman was formed in April 2000. The Committee has since held a series of human rights workshops with the cooperation and assistance of the Australian Government. These workshops disseminate information on human rights standards for public officials. The dissemination process is being widened to benefit a greater range of citizens.

The first international seminar on the Rights of the Child was held in Yangon in November 2001 in cooperation with the Centre for Humanitarian Dialogue and the International Institute for the Rights of the Child of Switzerland.

In June 2002, the Government submitted its Second Report on the Implementation of the Convention on the Rights of the Child.

In August 2002, the Human Rights Committee held a seminar on the International Covenant on Economic, Social and Cultural Rights, for the benefit of Government officials.

The initiative also includes awareness raising activities such as the Mine Awareness Workshop held in February 2002 with support from the Australian Government and the Mine Advisory Group based in the UK. In March 2002 general human rights workshops were held for law enforcement personnel.

V Efforts at health promotion

The Government is committed to strengthening the country's health system in order to meet the needs of the people. It is making every effort with its available resources to ensure equitable access to primary health services, even in the remote areas. Since 1988, one hundred and eleven new hospitals have been opened nationwide.

The Government is seriously committed to fighting the spread of HIV/AIDS and is addressing the issue as a matter of priority. HIV/AIDS has been designated as a disease of national concern. A high-level multisectoral National AIDS Committee, chaired by the Minister for Health, was formed in 1989 to oversee the National AIDS Programme in Myanmar. The National Health Committee, the highest policy-making body, provides policy guidance and necessary assistance to enhance HIV/AIDS prevention and control activities in the country.

Despite limited international assistance, Myanmar has adopted a comprehensive HIV/AIDS prevention and control programme. In early 2001, the National AIDS Programme and the Joint United Nations Programme on HIV/AIDS drafted a joint plan of action for the prevention and control of HIV/AIDS in the country. It is a comprehensive plan, covering all aspects: education, prevention, cure and rehabilitation. Myanmar stands ready to cooperate with international donors both bilaterally and multilaterally to combat this global menace.

Myanmar has been elected to serve on the UNAIDS Coordination Programme Board beginning January 2003, thereby enabling Myanmar to address the issue on both the national and international level.

VI National efforts for the promotion of the education sector

The Government has consistently given priority to the education sector since its assumption of State responsibilities. As a matter of priority, the Government concentrated on the building of educational infrastructure to create equal opportunity for children to fulfill the right to education. Over 5,000 primary schools, 425 middle schools, 240 high schools and 128 colleges and universities have been newly established since 1988. In May 2002, as a result of the nationwide school enrollment campaign, a total of 1.23 million children registered in kindergarten classes thereby reaching 93.7 per cent enrollment of the nation's school age children.

VII Economic situation

The efforts of the Government in the economic sector are primarily aimed at ensuring equitable development of the peoples of Myanmar. It aims at narrowing the development gap between the rural and urban areas. Over 70 per cent of the population of 52 millions live in the rural areas.

In 1988 the centrally planned socialist economy was discarded in favour of a market oriented economic model. The Government's efforts are directed at creating an infrastructure and environment under which the economy can develop.

The Government inherited a rapidly deteriorating economy in 1988 with very low monetary reserves. The political turmoil in that year left in its wake a completely devastated country in material terms. The civil administration structure was in complete disarray. Compounding the problems, western countries and multilateral financial institutions suspended official development assistance, loans and grants since 1989. Unilateral sanctions were applied and investments discouraged. Travel to the country was also discouraged so as to deter tourism, a promising source of income for the people. This situation left very little room to revitalize the country's economy. In spite of these constraints, the economy continues to grow considerably.

The sustained economic growth over the recent years contributed to a better quality of life for the majority of the population. While unjustified criticism of the Government continues, the Government has been able to make perceptible progress in its efforts for the all-round development of the country. The fact that, since 1999, Myanmar has been upgraded from the category of countries enjoying low development to the medium human development category in the human development index of the United Nations Development Programme reflects this progress.

VIII Unfounded allegations

Recently some remaining splinter groups of former armed insurgencies and well-funded exile groups, having chosen to remain outside of the mainstream reconciliation process, have started a negative media campaign using fabricated allegations by well orchestrated groups of insurgent families and military deserters to slander and discredit the government and to derail the national reconciliation process.

Allegations of rape in the Shan State by the armed forces were put out by organizations based in a neighbouring country with malicious intent to cause disunity in Myanmar. Three independent organizations from Myanmar conducted separate investigations and found that the allegations are untrue. The findings have already been made public. The Special Rapporteur Mr. Pinheiro has been invited to look into the issue in the course of his visit in October 2002.

A report recently issued by Human Rights Watch alleges that the Myanmar armed forces has the largest number of child soldiers in the world. The preposterous figure of 70,000 in the report is seen to be derived from the statements of 25 or so military deserters with dubious credibility. The actual point of fact is that the use of child soldiers is firmly prohibited both in law and in practice.

Under the Myanmar Defence Services Act of April 1974 and War Office Regulation 13/73, a person cannot be enlisted into the armed forces unless he has attained the age of 18. This regulation is

strictly enforced. Moreover, the Myanmar Armed Forces is a purely voluntary army and those entering the military service do so of their own free will. There is neither a draft system nor forced conscription in the country.

IX Conclusion

With the improving political climate in the country, the Government of the Union of Myanmar has been able to take a series of positive steps. As a country undergoing a complex transitional process, many challenges remain. All the positive developments mentioned above are a clear demonstration of the Government's commitment to overcoming all of the challenges. It is hoped that the international community will give due recognition to the positive developments in Myanmar and encourage the process appropriately.